1:Barnes E-5 (1946-1949)1954 FR5 Ngoni FR5
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brought more support for his lord; but as the segment expanded his chances of setting himself up as a chief increased and his loyalty became less certain. Thus the appeal to armed force came only as one phase in a general struggle for power carried on simultaneously at many different levels and by a variety of methods. The conflicting ambitions of each lord, each a potential rival of the State, combined to maintain the State and to reduce the likelihood of successful fission.

The conflict between identification with one's lord and differentiation from him, between what Fortes has called the centripetal and centrifugal forces in a segmentary society, is brought out clearly in the enforcement of the death penalty. Wiese implies that only the Paramount Chief had the legal power to sentence adulterers to death and that this offence was the ground for the majority of death sentences.[60] However, my own informants stated that senior lieutenants did sometimes sentence people to death without referring the matter to the Paramount Chief. The Chief would later come to hear of an incident of this kind and would then either praise the lieutenant for acting in the interests of the Chief and for ruling his people well, or else abuse him for usurping the powers of the Chief and warn him to be more careful in future. A successful lieutenant might establish his own major segment and eventually his own State; but if he moved in this direction prematurely he was likely to be killed for treason. This same inherent conflict exists to-day, albeit with different groupings and different sanctions.

7. *Stability*

The most striking differences between the residential system and most lineage systems were the high rate of segmentation, and the flexibility of the system. Segmentation in a lineage system depends basically on the unalterable processes of human reproduction and maturation. Until a man's children become adults his agnatic segment cannot split. The Ngoni, by recruiting many of their members when they were already grown up, were able to increase their population at a prodigious rate and with it the degree of segmentation of the State. As the Ngoni army increased in size, so it became easier for them to capture more people, so that what we may describe as an inflationary spiral in population was set up. The Ngoni State was like a snowball which grows larger and larger as it is pushed from place to place, but still remains uniform throughout. At last it becomes unwieldly and must be broken

[60] Wiese, 'Expedição', pp. 471-4, and 'Geschichte', pp. 189-90.

1:Barnes E-5 (1946-1949)1954 FRS Ngoni FRS
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by this relationship participate in the presentation and consumption of the beer.

The religion of the Ngoni before the conquest was a cult of the Paramount Chief's ancestors. This cult has disappeared and all public religious activities are now conducted by members of the various Christian denominations, Roman Catholic, Dutch Reformed Church Mission, Anglican (U.M.C.A.), Seventh Day Adventist, and Watch Tower. There are a few adherents of other Christian sects who do not have churches in the Fort Jameson area and there are a few Moslems. There is little evidence to show how much the disappearance of the tribal religion has altered relations between the chief and his people. Most chiefs have some connexion with one or other mission, attend mission services from time to time and send their children to mission schools. The evangelists, deacons and elders of the churches act as leaders of the community in certain situations, particularly at funerals. Advancement within the ecclesiastical organization can be an alternative route to high status, but in most secular matters church leaders do not rival the chiefs. In church, chiefs are treated with respect and given seats of honour, while tribal and county meetings are usually opened with prayers led by a catechist or elder of the denomination to which the chief is attached.

The sanctions which people can use against their chiefs are diffuse rather than organized. If the conduct of a chief is regarded as outrageous, the senior lieutenants of his county segment and other traditionally important people may hold a small meeting in the chief's village and there rebuke him for his misbehaviour. If the chief has offended against one of his people, say by striking him, the lieutenants may tell the chief to pay a beast to the wronged man as damages. If it is a minor chief who is involved, the Paramount Chief is sometimes told of the matter and calls the minor chief to his village to reprimand or caution him. A chief who flouted the instructions of his lieutenants or Paramount in matters of this kind would lose a great deal of the support of his people on which his position ultimately depends. The common people themselves cannot take much direct action against a chief of whose actions they disapprove, but they can gradually drift away from him into other counties and they can refrain from sending him gifts of beer or from answering his calls for labour, and they may show their disapproval by not saluting him in the traditional manner. The Paramount Chief alone is saluted with the word 'Baiyete',[14] a salutation which symbolizes his former position as head of an

[14] cf. Zulu *Bayete*.

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organized by a commoner. All the animals killed belong to the chief and must be taken to him. He then usually rewards the men who killed and carried the animals with part of the meat. There is thus a difference from commoner hunts, on which the animals belong to those who kill and carry them and not to the man in charge of the hunt. Whereas on a commoner hunt some men usually lose interest and drop out during the chase, this is less likely to happen on a royal hunt. A commoner, even if he is a headman, cannot force his neighbours to come with him on a hunt, but occasionally if the field is very poor a chief will summon absentees in his court.

These royal hunts appear to be of social rather than economic significance. Big game is scarce in Ngoniland, and a hunt attended by two hundred men may sometimes yield as few as half a dozen antelope. Ngoni like to eat game meat, but they do not regard hunting as an activity in which game should be killed as effectively as possible. They scorn the much more efficient methods employed by the Cewa, illegal though they are in the eyes of the Administration. An Ngoni lad was once ordered by his village headman to attend me on a hunt in which we used nets in Cewa fashion. The lad was sulky throughout the hunt and made no effort to kill any animals. A few days later we went hunting again, this time employing Ngoni techniques. We tramped many miles on a very hot day and killed nothing at all, and yet he appeared to have thoroughly enjoyed himself. Royal hunts must be seen in this light. A chief can no longer command a regiment of soldiers but he can call out his men hunting.[18] Men attend because they consider it their duty to do so and because they are aware of the sanctions at the chief's disposal.

Royal hunts are sometimes of practical importance, when there are lions to be hunted. Lions appear in Ngoniland sporadically, apparently on passage between the game reserve on the Nyasaland side of the border and the sparsely inhabited Luangwa Valley. Hunters like to be in strength when tackling lion, and the men of a county look to their chief to call a royal hunt to deal with them. Chiefs are relatively well supplied with guns, and the combination of many hunters armed with spears and a few guns gives confidence.

6. *African bureaucracies*

Prior to the recognition of Native Courts in 1929 there was little specialization in the functions of the various indigenous leaders supported by the Administration. All of them, chief, sub-

[18] See my 'Fort Jameson Ngoni', p. 215, for Ngoni hunting methods.

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chiefs and district headmen, were in undifferentiated charge of people. With the formal introduction of Native Courts came provision for the systematic review of judicial decisions by the Administration. To do this some kind of written record was necessary. Many chiefs could not write and court clerks had to be appointed. At the same time the posts of councillor and assessor were created, the former to assist the chief in his executive and legislative capacity as a Native Authority, the latter to help him in his judicial capacity and to constitute with him the Native Court. Messengers[39] were employed to preserve order in court, serve summonses, make arrests and restrain the violent. Under the Ordinances, the Native Authority has power to make rules and orders on a variety of subjects, subject to confirmation by the Administration. The Native Courts are competent to enforce these rules and orders, as well as to administer 'tribal law' and certain items of Administrative legislation delegated to them. They can impose fines or sentences of imprisonment or whipping. In civil cases they can award damages, and charge a hearing fee, but the Ngoni do not distinguish between the fee and a fine.

In 1938 an Ngoni Native Treasury was established and a treasury clerk appointed to run it. After a few years the Administration transferred a larger share of general revenue to the Native Treasury and increased the activities for which the Native Authority was responsible. At one time much of the finance of the Ngoni Native Authority School, opened in 1938, was handled by the Native Treasury, though this was largely a matter of book-keeping. The Native Authority assumed responsibility for the construction and maintenance of roads through the reserves, the care of wells and dams constructed by the Administration, and the provision of messengers to act as police at the lorry-checking points on the main roads. More recently it has become responsible for ghee production, for a demonstration farm and for a nursery of fruit trees. It has had to arrange finance for new school buildings and county granaries and to build these by direct labour. To handle the money for these enterprises there has been a treasury clerk and, recently, an assistant who also helps with the collection of Native tax. The Native Treasury acts as accountant for all these activities but the extent to which the Administration, in one guise or another, directs their carrying out varies considerably.

The revenue for the Treasury is derived from a share in the Native tax, from the sale of licences for dogs, bicycles, arms,

[39] Usually known by the vernacular term *kapaus* in distinction to the district messengers employed directly by the Administration.

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696 In the court itself the magnitude of the penalties imposed and damages awarded is to some extent at the discretion of the court, and political considerations, among others, may influence judgments. Adultery with the wife of a chief is more heavily punished [681] than ordinary adultery, and people from other tribes, particularly [186] the Yao, are discriminated against. Ngoni courts maintain that they recognise only Ngoni law, even though the disputants may belong to other tribes. These ideas are familiar enough, but they indicate that questions of group membership, that is, political affiliation, and relations between groups, do influence the actions of the court. Within a county, hostility between a group having [578] the ear of the court and one lacking it may find expression in procedural obstructions, such as always hearing a particular suit at the end of a day, or of continually postponing the hearing because some minor witness is absent.

661 The chief and his advisers usually endeavour to maintain a 648 monopoly of access to the Administration, and this endeavour is largely supported by the Administration as a matter of policy. In 696 the particular sphere of legal action, appeal from the Native Court to the District Officer is sometimes regarded as a challenge to this monopoly, and litigants are sometimes punished for stating that they intend to appeal. In a celebrated recent case when a chief was successfully sued in the District Commissioner's court for damages for adultery, his people came to him afterwards to express their condolences, as after a funeral, at the injury done to his high office by this procedure.

692 Native Courts are formally recognized under Ordinance by the Administration, and hence changes in the indigenous legal 648 system brought about by the Administration are legal changes, in that they have behind them all the paraphernalia of Ordinances, Letters Patent, Orders-in-Council, and Acts of the United Kingdom Parliament. This gives a special quality to manipulation of the legal system by the Administration, for this is really only another way of saying that effective sovereignty lies with the British Crown and not with Paramount Chief Mpezeni. But within the framework of analysis of the local situation, the actions of the Administration and of the chiefs in controlling the working of the courts are comparable sociologically.

The Administration is continually exercised about the quality of the work done in Native Courts, and in so far as all cases heard in Native Courts are subject to revision by the District Commissioner a direct check is, or could be, exerted on the way in which the courts operate. But Administrative intervention goes further

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rule as a Native Authority Order.[16] Thus the chiefs preferred to appear as legislators enforcing their own laws rather than as the judicial agents of the Administration.

Besides the Administration, other groups external to the indigenous system endeavour to influence the action of the courts. Thus missions work through chiefs to try to prevent the granting of divorces in the courts, traders endeavour to get their disputes with Africans heard in Native Courts rather than in those of the Administration, and farmers request courts to hear promptly cases which concern their employees.

Occasionally the Ngoni chiefs meet together with their people and formally make a new law. This appears to have happened about once in each decade. Yet in the courts new decisions are constantly being taken since the circumstances in which disputes arise are continually altering. The way in which these decisions are imposed throws light on the position of the court within the county, for many of these new decisions, precedents as we would call them, are introduced under the guise of a revival of some good but lately neglected tribal custom. There is no recorded corpus of Native law and custom which the Native Courts are empowered to enforce and, therefore, to say that a new decision is merely a revival of an established usage satisfies the requirements of the Administration, provided the usage is not 'repugnant to natural justice and morality'. On the other hand, it enables the court members to legislate without referring the matter to a meeting of the whole tribe or county, at which anyone would be free to speak his mind. Thus the group of persons who are in power in the court further entrench their position.[17]

9. *Moral and physical sanctions*

The counties and the tribe persist as social groups despite the ease with which their members may move away to other surroundings. The Native Authority remains in power, and its courts are full of litigants, despite the unequal distribution of privileges and rewards. In a general sense the system works because there are moral as well as physical sanctions behind the rulings of the court. There is general agreement about the rights and wrongs of the actions with which the courts have to deal, and it is this that in the end usually makes a man pay damages and fines that have been awarded against him rather than the threat of the Administration's force behind the court. The decisions of the courts are subject to

[16] *African Affairs, report*, 1948, p. 47.
[17] For a further analysis of this legislative process, see my paper, 'History'.

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review by the Administration, but in practice the cases are so numerous, the written account of them so brief, and often the handwriting of the record so bad, that it is difficult to make an adequate review. The Administration is able to keep some check on the financial transactions of the courts, and convictions for embezzlement are not uncommon; but the Administration does not greatly influence the decisions taken by the courts nor their enforcement. For though there are police on the lorry routes and crocodiles in the rivers, it is fairly easy for a determined man (or woman) who is dissatisfied with the treatment he has received in the courts to get away. He can usually get to a White farm or to a town, and once there it is not so easy to get him back. Men are not continually running away from the courts, for they usually accept decisions given against them, though appeals from a minor chief's court to the Ngoni Appeal Court are fairly common. Few people take their appeals further to the District Officer, and I have never heard of a case going on appeal beyond the Provincial Commissioner's Court.

The general moral approval by the people of the work of the courts which lies behind much of the effectiveness of the Native Court system does not extend automatically to all legal action as such. There is no widely held view that the decisions of the courts must be supported merely because they are the decisions of the courts. Some courts are good, some bad; and some decisions are good, some bad. The great majority of cases that come before a county court are brought by men and women living within the county, but sometimes a litigant begins his suit in a county court not his own, particularly in the Paramount Chief's county court, if he thinks that he will get a better hearing there. Yet chiefs support each other and a case brought before a chief by litigants from another county are sometimes thrown out, in accordance with the Native Courts Ordinance.

There is little moral sanction attaching to legal procedures, or methods of appeal, or even to the particular sums awarded as damages. The members of courts tend in the main to uphold each other's decisions, so that there is a fair amount of conformity throughout the ten counties. All those who work in courts have in fact an interest in increasing the power of the court system, which the people as a whole have not. Disputants will settle out of court if they can, for it is not so far to walk and the whole process is not so disruptive of social ties, but members of a court will sometimes challenge the right of independent arbitrators, village headmen and the like, to come to any binding decisions.

4: Barnes E-5 (1946-1949)1951 FR5 Ngoni FR5 Mpezeni

money to buy herself clothes, if her husband has no money to give her.

In court, when a woman has to pay damages or a fine, she may be able to provide the money from her own resources. If not, she can turn to her husband or to her own kinsfolk. Provided damages for adultery are not involved, her husband, if he is not away working, ought to provide the money and a deliberate refusal to do so would precipitate a major quarrel and the possibility of divorce. If a woman gets into a fight at a party, and has to pay, say, half-a-crown to someone she has hurt, her husband ought to find the money for her. If he refuses to do so though she has no money of her own, the court will say that he no longer loves his wife, and is trying to find an opportunity to divorce her. Indeed, there would be little point in the husband refusing to pay, as those who cannot pay their fines are committed to prison, and he would then lose the services of his wife.

A woman can hold property in her own right and a husband honours a well-loved wife by giving her cattle. Gifts that she gets from her own kinsfolk do not pass to her husband, and such things as blankets and mats that she has used, even if her husband bought them, are regarded as her own property. Even the money that her husband gives her to make specific purchases is her own to do as she pleases with, so that a woman may forgo the skirt for which her husband has given her money and instead give it to her sister to buy something else. Husbands do not always like such actions, but they cannot do anything directly to prevent them. One of the ways in which a wife acquires livestock of her own is by buying animals with the money she gets from her husband for clothes. The produce of a wife's wet-season garden, maize, sorghum, millet, root crops, pulses, cucurbits, is in effect held in common by husband and wife, and neither ought to sell any of it without first consulting the other. On divorce the crops are divided between them unless the court decides that one party did not work in the garden, or has deserted the other. The money a woman earns by brewing beer for sale she usually keeps, although some men say that a woman should hand the money over to her husband, lest he find her with it and suspect that she has earned it by prostitution. In practice, most women seem to keep their own earnings and it is not uncommon, where the husband is a drunkard and weak-willed, for his wife to have custody of his money as well. Indeed the simultaneous operation within the husband-wife relationship of structural separation and social co-operation is well demonstrated by the apparently paradoxical situation, of which I saw two instances, in which a man ordered to pay damages to his wife for fighting her had to ask her to hand him over the money so that he could duly hand it back to her.

6. Mystical links

Symbolic expression of the relationship between man and wife is not greatly developed among the Ngoni, and the mystical bonds

/4 cont'd/

national basis to include all the adolescent males in the tribe, whatever their origin. Women were grouped into corresponding regiments. This system broke down after the first World War, when so many young men went away in the fighting. To-day the great exodus is not to war but to work, to the mines of Southern Rhodesia and elsewhere, and the incidence of labour migration is so high that it is not unknown to find a village in which there is no adult male resident. Part of the exodus is seasonal, and many men and women, as well as children, find employment on the tobacco farms of the district and in Fort Jameson Township.

II

The staple crop is maize, of which enough is grown to provide in good years for a small surplus for sale to the tobacco farms and the Administration. Tobacco is not grown by Africans for sale, except within the villages, but vegetables and a little rice and finger millet are sold to Europeans. Cattle are kept in the fly-free areas, and play an important but diminishing part in social life as the means of paying bridewealth, but the sale of cattle is not at present a regular affair. Their principal use is as a form of capital investment that can be called up to meet damages and fines awarded by the Courts.

The population of the tribe is about 60,000, the majority living in the Ngoni and Msandile Reserves, both near to Fort /5/ Jameson. The remainder live on the tobacco farms or in Fort Jameson Township. Villages vary in size from settlements of three or four huts to large clusters containing up to 500 people. The average size of a village is about thirty huts with a population of 100.

The Ngoni conquerors reckoned descent in the male line, while most of the people whom they conquered and with whom they married traced descent through the mother. To-day for practical purposes, descent is omnilateral, in that any connection through a male or female ancestor can be made use of as the occasion demands.

13:Fraser M-5 (ca. 1890) 1901
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down at the chief's feet, and with a shout dashed up again and danced a furious war dance. His eyes fixed and staring with passion, every muscle distended, he stabbed into the air with his spear, tossed the dust of the kraal about, and leapt hither and thither in a frenzy of passion. All the while he kept shouting his battle-cry, and the thousands of fighting men around beat their spears and chanted a chorus. When he had exhausted himself, another headman leapt into the circle and went through his own peculiar wild dance, and then another and another, and for half-an-hour or more these fantastic exhibitions were maintained. Then the chief rose. A great roar of salutation greeted him. Gathering his clothes about him he walked in procession from the kraal, and the council broke up.

In the olden days the power of the chiefs was maintained by a wholesome dread of his warriors, and the laws were enforced with a consistent severity. One result of this is that the Ngoni tribe has always had a higher standard of morality than any Central Africa people. Some persons were stealing mission cattle and complaints were made to the chief. After a time a thief was caught, and then in spite of the pleadings of the missionary the highest penalty was meted out to him. He was hanged on a tree opposite the mission house, and it was forbidden to remove his body. The hyenas wore a path round the foot of the tree trying to get at the carcase, and there he hung, a terrible example to the neighbourhood, until the white ants ate the rope by which he hung, and the body fell to the waiting hyenas.

I have seen a chief receive news of the adultery of one of his wives, turn to his executioner, and give him instructions, and in a few minutes both man and woman were lying dead outside the village. I have myself begged for the life of a woman who had sinned, and she was spared only after a great fine in cattle was levied instead.

These were harsh and terrible punishments, necessary for rough times. And now when the chief is loosing some of his old authority, and dare not exercise capital punishment because of the overshadowing British Government, one fears that except where the power of religion has taken the place of the old dread, a weaker morality is apt to sap the vitality of the tribe. The punishments were not arbitrary. They were fixed by precedent. And all the past quarrels for forty or fifty years back would be quoted to prove the right of a plaintiff or defender. And now

13:Fraser M-5 (ca. 1890)1901
FR5 Ngoni FR5

when the death penalty can hardly be exacted, or compensation made in the delivery over of slaves, they find it hard to satisfy demands and make a show of justice.

Now let us speak of the social life of the people. The Ngoni differ from most of the Central Africa tribes in their habit of living in large unprotected villages. The tendency of most of the other tribes is to scatter themselves in very little hamlets over a wide area, with scarcely a path of communication between the villages. Where war has harassed them they have built huge stockaded villages for their mutual protection, but as soon as assured peace has come again, the towns have split into numerous distant groups of houses. This seems to be caused by the dread and mistrust of one another which the people have through their superstitious belief in a evil eye, and in witchcraft, and through the perpetual little quarrels that arise. A carrier who was accompanying a friend of mine described this state very well when they passed a little village of four huts, and then a few hundred yards farther on an isolated hut. Holding up his hand he cried, "Look at Mr. Thumb saying to Messrs. Fourfingers, keep your distance."

The heart of a Ngoni village is the large circular cattle kraal. There all the court cases are tried, there the visitors are received, and there the dances are held. Round the kraal the village of bechive huts is built in regular rows, and then immediately outside the gardens begin. The village life takes the place of family life, and the headman is father of all the people. The boys after they have attained to twelve years of age or so live in huts by themselves, and the girls in huts on the opposite side of the village. These girls' quarters used to be most sacredly guarded, and any man found in their enclosure after dark could be killed.

The great part of the Ngoni nation consists of domestic slaves. They are people, or the descendants of people, who have been captured in raiding expeditions. But their position is not a hard one. If they are discontented they may change masters. They give their masters a little free labour, and in return are made members of his family; he espouses all their quarrels, looks after them in sickness, and shares some of his superfluity with them, but they have to share some of their necessities with him.

Polygamy was the universal custom of the people until recently. Now hundreds of polygamous unions are being dissolved every year. But in the rougher days polygamy was a necessary